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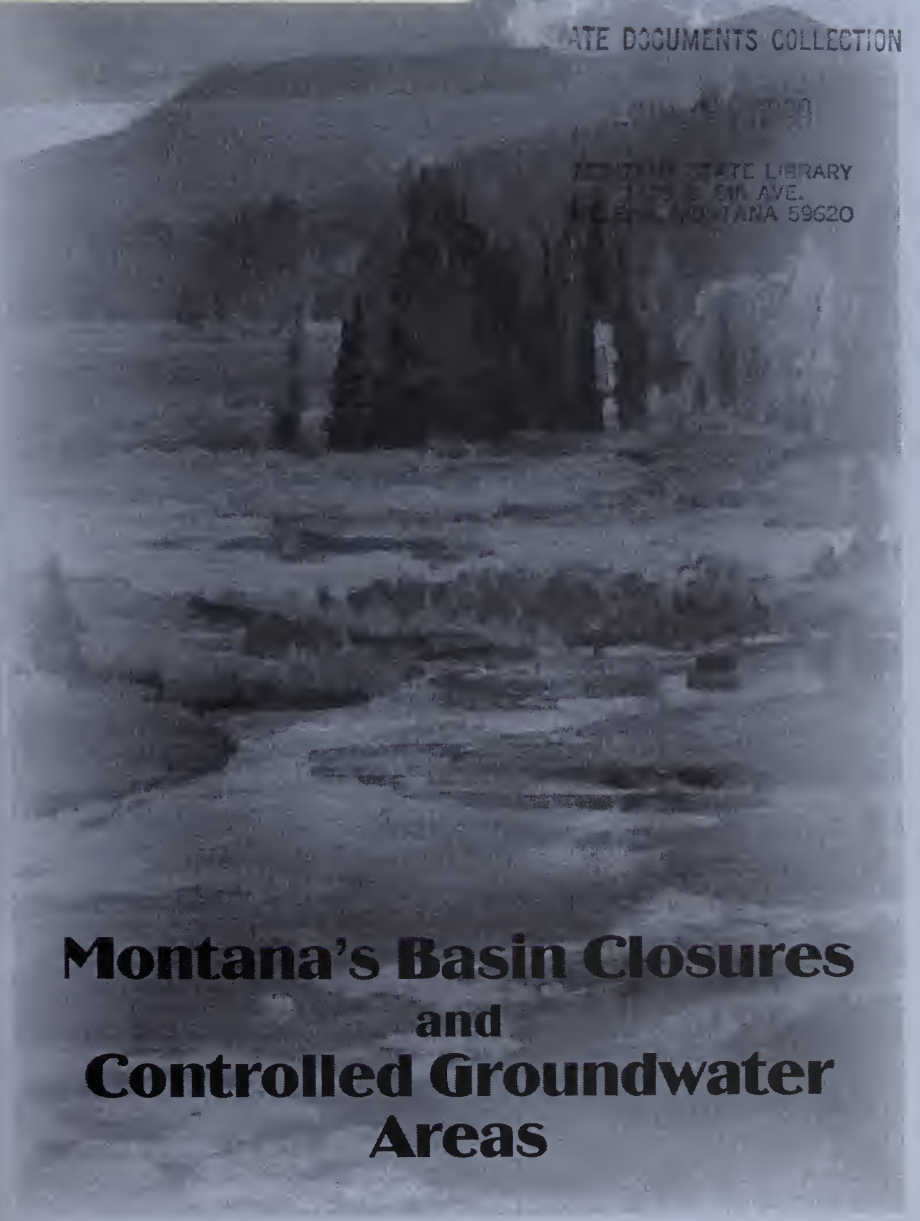

Montana's Basin Closures and Controlled Groundwater Areas

December 1998

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Montana's Basin Closures and Controlled Groundwater Areas

December 1998

Water Resources Division
Water Rights Bureau
48 North Last Chance Gulch
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For questions call (406) 444-6611

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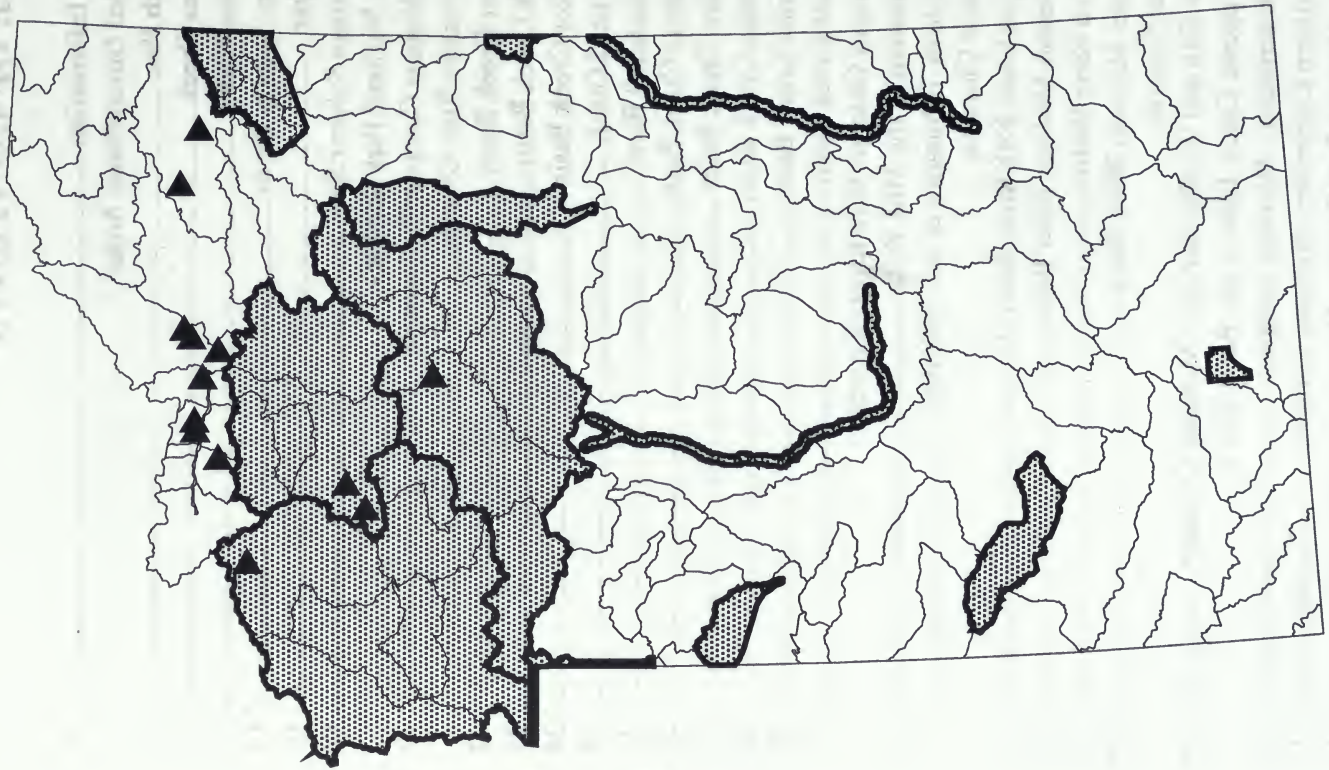
MONTANA'S BASIN CLOSURES AND CONTROLLED GROUNDWATER AREAS



GENERAL INFORMATION

Montana has closed some of its river basins and groundwater aquifers to certain types of water appropriations because of water availability problems, water contamination problems, and a concern for protecting existing water rights. There are five different types of closures.

1. Controlled Groundwater Areas — The Department of Natural Resources and Conservation (DNRC) may designate or modify controlled groundwater areas. In addition, another state or local agency can petition for a controlled groundwater area. This is often done when health risks are identified. Water users on the source can petition for a controlled groundwater area as well. The petition must be signed by 1/4 or 20 of the water users on the source (whichever is less).

DNRC will publish notice of a hearing on the proposal for three successive weeks in an area newspaper and hold a hearing at least 90 days after the proposal but not less than 30 days after the date public noticed. Each well driller licensed in Montana whose address is within the county where the area in question is located will receive a copy of the notice and petition individually. So will each person who according to DNRC records uses groundwater, the presiding officer of each incorporated municipality located in the groundwater area, and any other person who may be interested or affected by the proposal.

There are seven controlled groundwater areas.

2. Petitioned Surface Water Basin Closures by Rule — DNRC may adopt Administrative Rules to close a drainage basin. To adopt rules, DNRC must receive a petition. The petition can come from the Department of Environmental Quality, or from users of water from the source within the basin. If the petition comes from water users, it must be signed by at least 25% or 10 users (whichever is less).

DNRC will publish notice of a rulemaking hearing for three successive weeks, and hold the hearing at least 30 days after publishing the notice.

There are 10 basins that have been closed by rule.

3. Department Ordered Milk River Closures — The legislature has given DNRC the authority to order closures within the Milk River basin. There are two DNRC orders closing portions of the basin.

4. Legislative Closures — By law the legislature can preclude permit applications in a chosen drainage basin. Five basins have been closed by legislative action.

5. Compact Closures — The Reserved Water Rights Compact Commission has negotiated seven (7) compacts with tribes and federal agencies. Four of these compacts have stipulations in them that close certain sources of water to new appropriations, and regulate groundwater withdrawals. One created a controlled groundwater area. This is the Yellowstone Controlled Groundwater Area.

CONTROLLED GROUNDWATER AREAS

In a controlled groundwater area, anyone wishing to drill a well must first apply for and receive a Permit for Beneficial Water Use (85-2-508, MCA). This applies to any size and type of appropriation, including wells to be used at less than 35 gallons per minute (GPM) and less than 10 acre-feet per year. Some controlled groundwater areas have additional restrictions.

The reasons for ordering a controlled groundwater area include:

- Groundwater withdrawals in the area are greater than recharge of the aquifer,
- Excessive groundwater withdrawals are likely to occur in the near future,
- There are significant disputes regarding groundwater rights in the area,
- Groundwater levels or pressures in the area have been or are declining excessively,
- Excessive groundwater withdrawals would cause contaminant migration,
- Groundwater withdrawals are or will adversely affect groundwater quality, and
- Water quality in the groundwater area is not suited for a specific beneficial use.

South Pine Controlled Groundwater Area

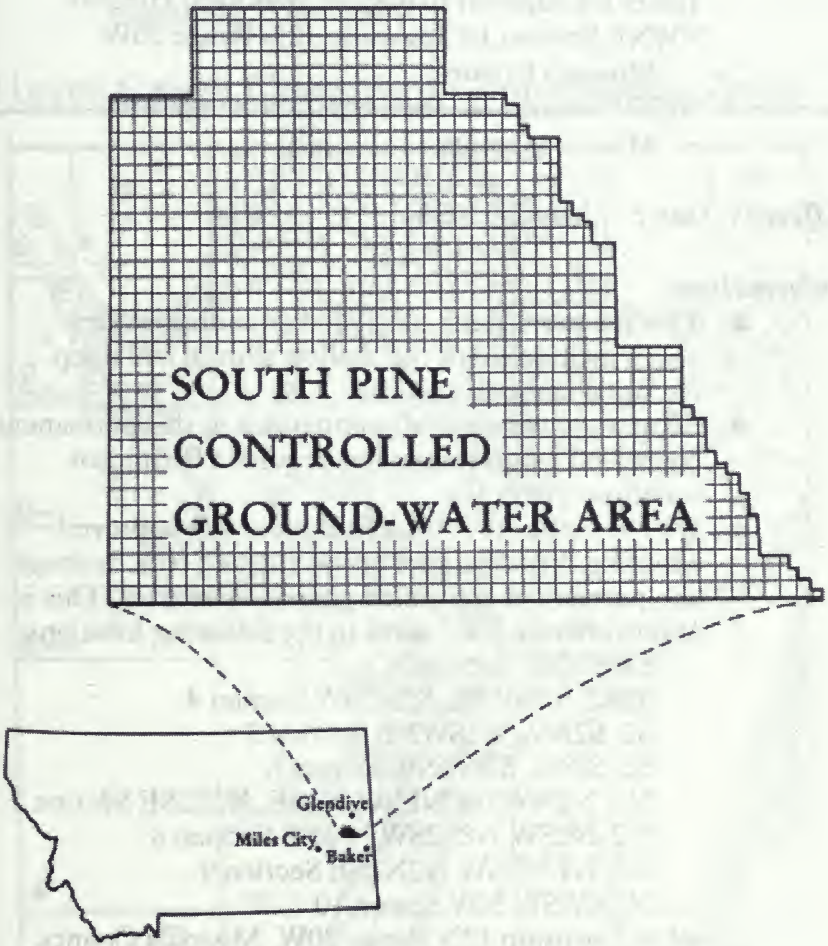
Location: Township 12N Range 55E,
Township 11N Range 55E
Township 11N Range 56E
Township 12N Range 56E, west of Cedar Creek Anticline,
Township 13N Range 55E
All in Prairie County
Township 11N Range 57E, west of Cedar Creek Anticline in Fallon and Wibaux Counties

Effective Date: November 1, 1967

Information:

- No new appropriations of groundwater may be made except by permit request (regardless of size).
- No presently inactive well may be used except with the approval of DNRC.
- No presently active well may increase its flow rate except with the approval of DNRC.

South Pine Controlled Groundwater Area



Hayes Creek Controlled Groundwater Area

Location: Woodland Heights Lots 1-12 Block 1,
Lots 1-6 Block 2, and Lots 1-11 Block 3
Woodland Park Lots 1-10
Tracts 1-4 adjacent to original Woodland Heights
NWNE Section 10 Township 12N Range 20W,
Missoula County
NENW Section 10 Township 12N Range 20W,
Missoula County

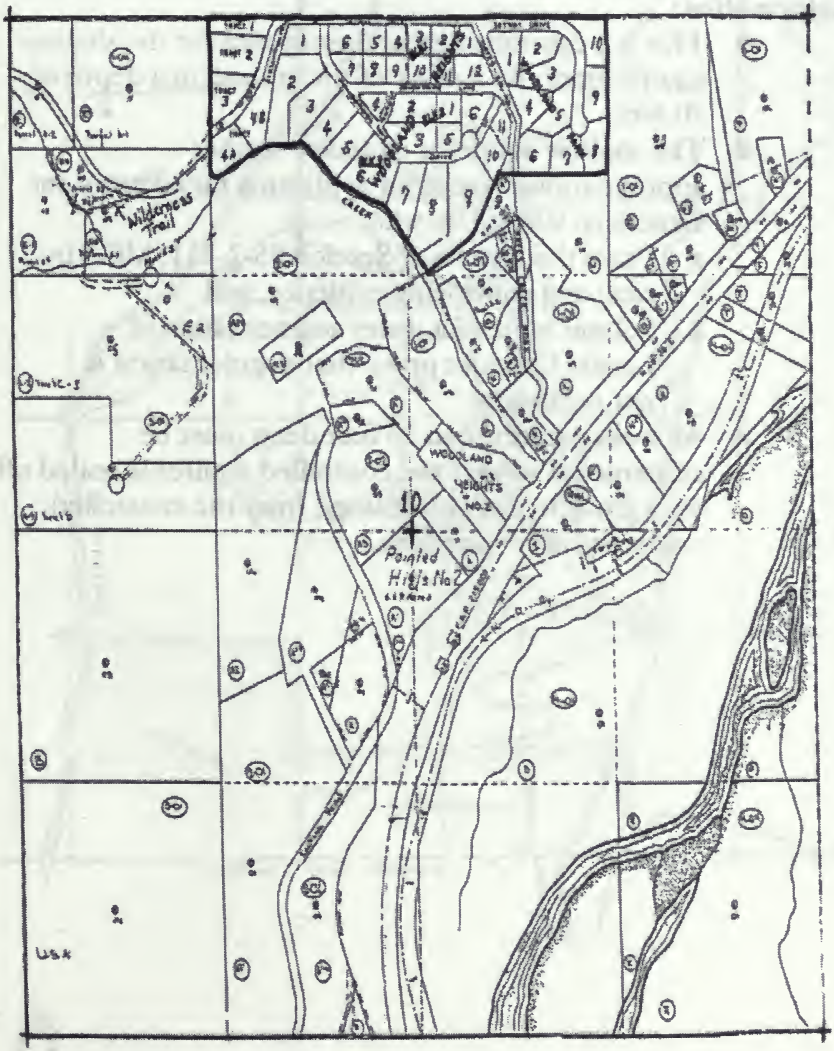
Effective Date: May 25, 1995

Information:

- This is a permanent controlled groundwater area which includes both the shallow alluvial and deep fractured bedrock aquifers.
- All new groundwater appropriations in this permanent controlled groundwater area require a Permit for Beneficial Water Use.
- On December 1, 1998, a final order was approved adopting the remainder of the Hayes Creek drainage as a permanent controlled groundwater area. This is approximately 2,465 acres in the following locations:
  SWSWSW Section 3
  S2S2, S2NWSE, S2N2SW Section 4
  S2, S2NW, W2SWNE Section 5
  S2, S2N2, S2N2NE Section 6
  N2, N2NWSW, NESW, N2SE, N2S2SE Section 7
  N2, N2SW, N2S2SW, NWSE Section 8
  N2, NENESW, N2N2SE Section 9
  N2NWSW, NW Secton 10
  all in Township 12N Range 20W, Missoula County.
- DNRC may not grant a permit in the new controlled groundwater area section if the withdrawal would be beyond the capacity of the aquifers to yield groundwater within a reasonable or feasible lift.

- There cannot be more than one well on each lot and new groundwater permits will be conditioned with the possibility of limiting withdrawls in the future.
- DNRC will appoint a "groundwater supervisor" who will monitor groundwater levels, take water samples, administer any water use restrictions, and may require metering if necessary.

Hayes Creek Controlled Groundwater Area



Larson Creek Controlled Groundwater Area

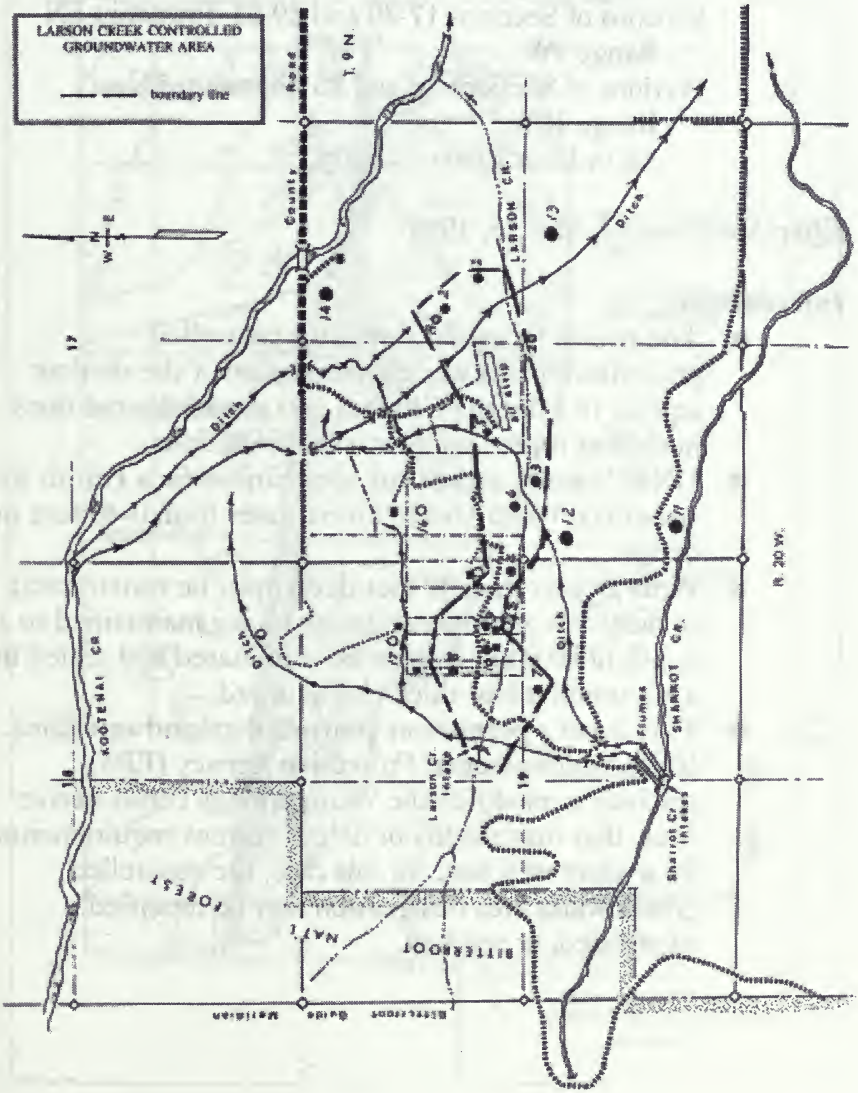
Location: Center East ½ Section 19 Township 9N Range 20W, Ravalli County
West ½ Section 20 Township 9N Range 20W, Ravalli County

Effective Date: November 14, 1988

Information:

- This is a controlled groundwater area for the shallow aquifer from the surface of the ground to a depth of 70 feet.
- The shallow aquifer is closed to further appropriations except for applicants for a Permit for Beneficial Water Use who:
  a. Prove the criteria of Section 85-2-311, MCA by clear and convincing evidence, and
  b. Submit a plan for water augmentation of Larson Creek or prove that augmentation is not necessary.
- All wells greater than 70 feet deep must be constructed so that the controlled aquifer is sealed off with grout to prohibit leakage from the controlled aquifer to other aquifers.

Larson Creek Controlled Groundwater Area



Warm Springs Ponds Controlled Groundwater Area

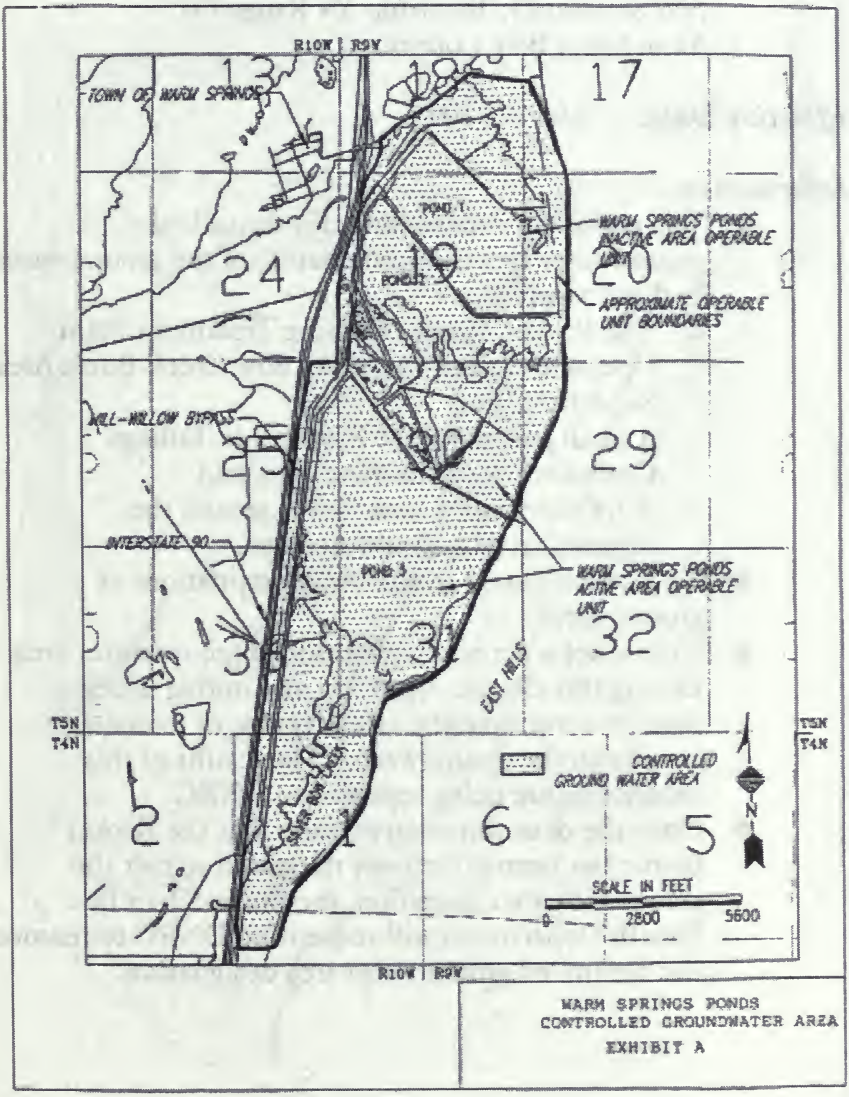
Location: Portions of Sections 1, 11, and 12 Township 4N Range 10W
Portions of Sections 17-20 and 29-31 Township 5N Range 9W
Portions of Sections 25 and 26 Township 5N Range 10W
All in Deer Lodge County

Effective Date: May 25, 1995

Information:

- The reason for establishing this controlled groundwater area was contamination of the shallow aquifer to a depth of 40 feet. Its establishment does not affect remediation or response actions.
- DNRC cannot accept any applications for a Permit for Beneficial Water Use to divert water from 0-40 feet in depth.
- Wells greater than 40 feet deep must be constructed to include a grouted conductor casing maintained to a depth of 40 feet. It must be terminated and sealed in a minimum 6 foot thick clay aquitard.
- This is not a permanent controlled groundwater area. If the Environmental Protection Agency (EPA) rescinds or modifies the Warm Springs Ponds Active Area, that may modify or delete current requirements for a water well ban. In this case, the controlled groundwater area designation may be modified, suspended, or revoked.

Warm Springs Ponds Controlled Groundwater Area



Rocker Controlled Groundwater Area

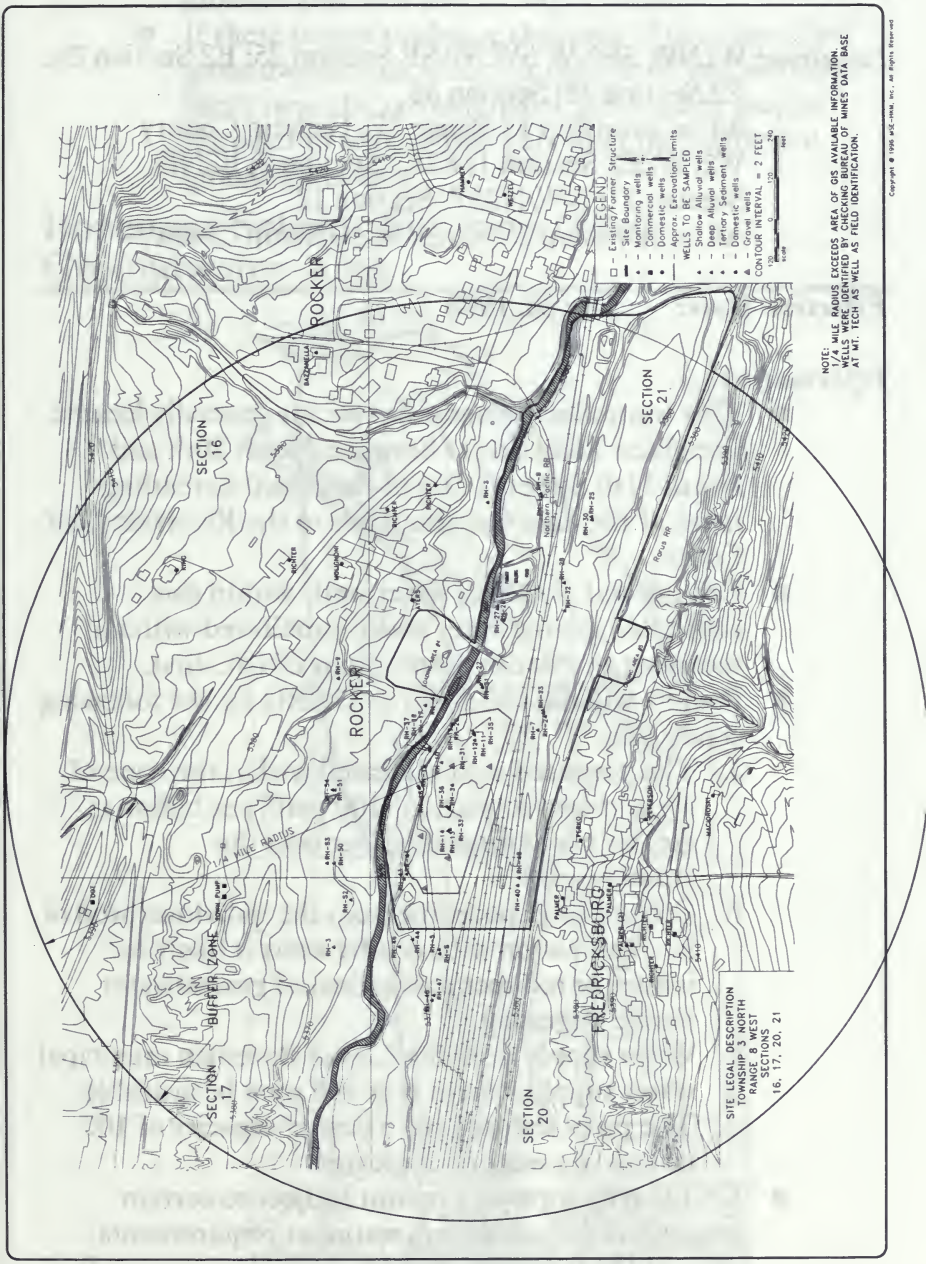
Location: SW Section 16, Township 3N Range 8W
SE Section 17, Township 3N Range 8W
NE Section 20, Township 3N Range 8W
NW Section 21, Township 3N Range 8W
All in Silver Bow County

Effective Date: May 30, 1997

Information:

- The reason for establishing this controlled groundwater area is contamination of the groundwater in three aquifers:
  a. The Rocker Timber Framing Treatment Plant Operable Unit of the Silver Bow Creek-Butte Area Superfund Site,
  b. A small portion of the Streamside Tailings Operable Unit Superfund Site, and
  c. A 1/4 mile buffer zone radius around the contaminated groundwater area.
- This area is closed to all new appropriations of groundwater.
- This is not a permanent controlled groundwater area. During this closure, quarterly monitoring is being done to determine the effectiveness of remediation actions on the groundwater. The results of this monitoring are being reported to DNRC.
- Once the determination is made that the Rocker plume has been effectively mitigated to halt the threat of further migration, the Butte-Silver Bow Health Department will re-petition DNRC to remove the controlled groundwater area designation.

Rocker Controlled Groundwater Area



Bozeman Solvent Site Controlled Groundwater Area

Location: W2NW, SENW, SW, SWSE Section 25; E2 Section 26; E2 Section 35; Section 36
All in Township 1S Range 5E, Gallatin County
W2, W2E2 Section 1; E2E2 Section 2; E2NE Section 11; NW, N2SW Section 12
All in Township 2S Range 5E, Gallatin County

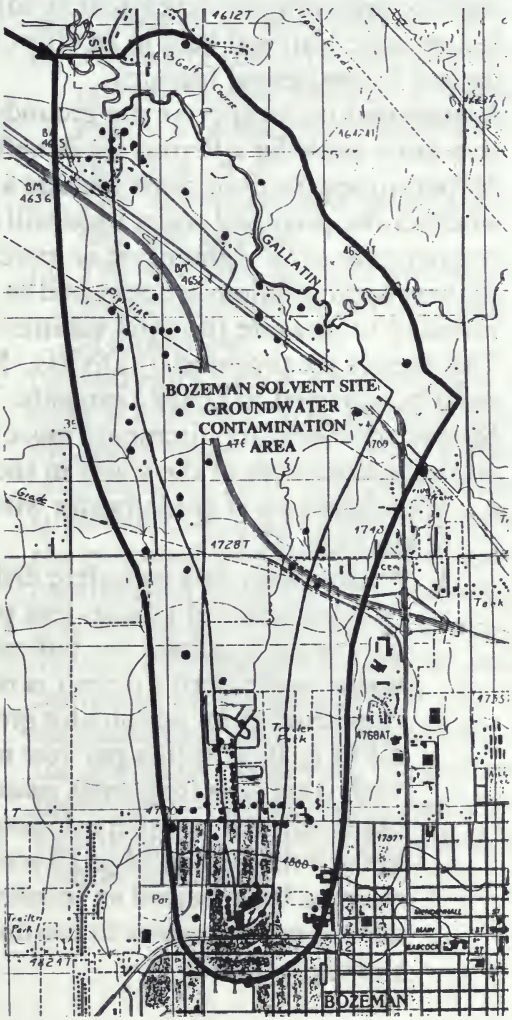
Effective Date: July 20, 1998

Information:

- This controlled groundwater area is generally located from West Main Street between North 20th and North 11th Streets (City of Bozeman) extending north of the East Gallatin River to the Riverside Golf Course.
- Drilling and installing water wells within this controlled groundwater area is prohibited without receiving an interim permit from DNRC first.
- Permits will not be issued by DNRC for the following conditions:
  a. The proposed well is located within the zone of highest contamination (100 parts per billion or greater of chlorinated solvents in the groundwater).
  b. Groundwater pumping from the individual well or in combination with nearby wells is likely to induce or redirect contaminated groundwater plume migration.
  c. Water supply from the City of Bozeman municipal water supply system is or will soon be available.
  d. The proposed well has a design capacity of 100 gallons per minute or greater.
- DNRC may approve a permit subject to certain conditions such as water treatment requirements.

- Monitor wells used just for monitoring water quality or quantity are excluded from the controlled groundwater area permit requirements.
- If there is ever evidence that part of the controlled groundwater area is not contaminated and will most likely never be contaminated, procedures may be initiated to remove that part from the controlled groundwater area.

Bozeman Solvent Site Controlled Groundwater Area



U.S. National Park Service-Montana Compact Yellowstone Controlled Groundwater Area

Location: North and West of Yellowstone National Park

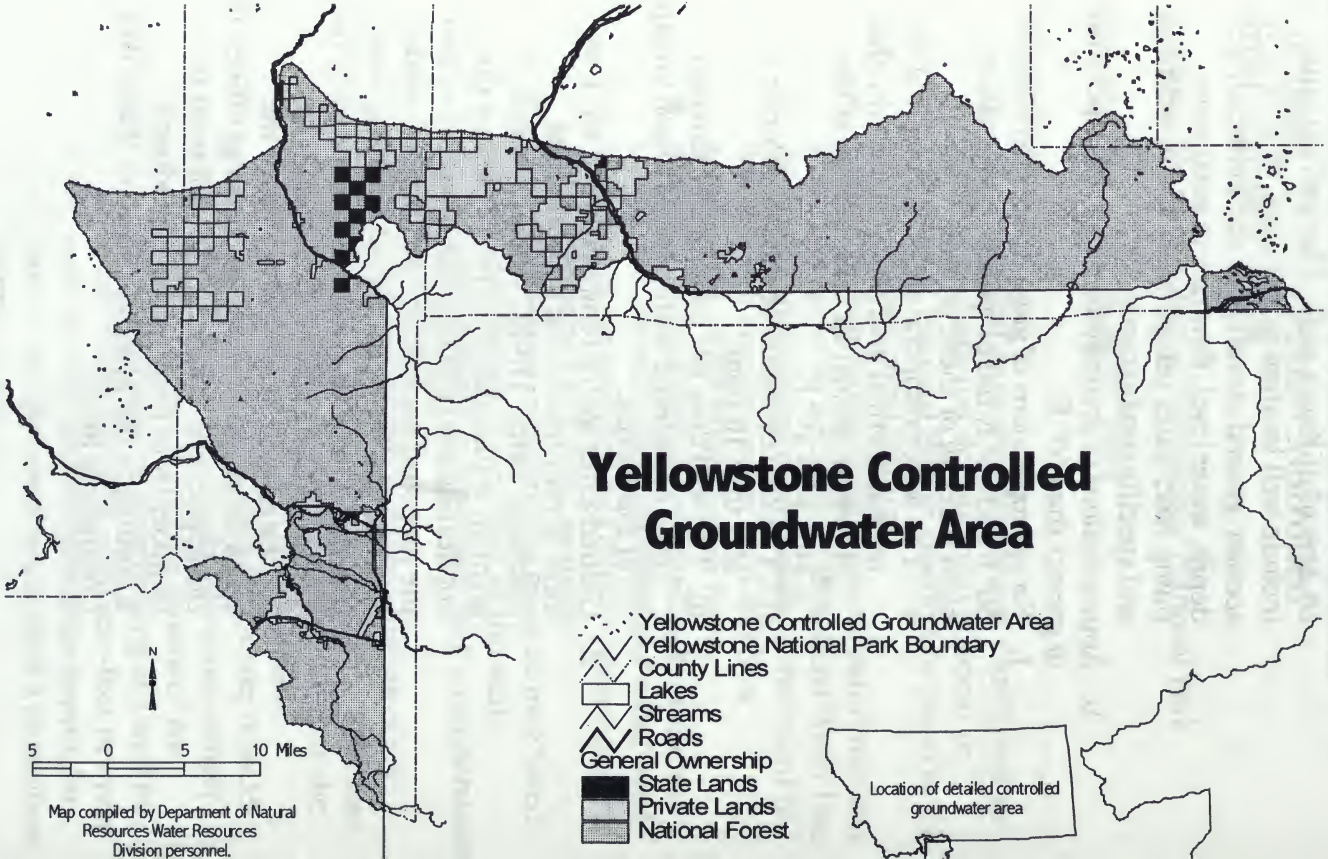
Effective Date: January 31, 1994

Information:

- The controlled groundwater area was established to regulate groundwater development adjacent to Yellowstone National Park in an effort to preserve its natural hydrothermal features.
- Anyone wishing to appropriate groundwater from this area must apply for a Permit for Beneficial Water Use.
- All permit applications must include a statement of whether the proposed water used will be a temperature of 60° Fahrenheit or more.
- All new appropriations are required to have meters installed to measure the total volume of water used. The meters are provided by DNRC. Measurements must be reported to DNRC annually.
- Special additional requirements must be met based on the temperature of the water in the well:
  a. Appropriations of groundwater with a temperature of less than 60° F.
     1. An applicant may complete drilling of a 35 GPM or less and 10 acre-feet per year or less well subject to state law but cannot put the water to use until a permit is issued.
     2. Applications for permits for greater than 35 GPM or 10 acre-feet per year must comply with state laws for permit issuance. An applicant may complete drilling of a well for greater than 35 GPM or 10 acre-feet per year once he has received an interim permit, but cannot put the water to use until a provisional permit is issued.

3. A well log must be provided to DNRC within 60 days of drilling a well. The well log must include well location to 2½ acres, or ¼ ¼ ¼ ¼ section, ground elevation at the wellhead, well depth, water level, flow rate or maximum pump rate, water temperature at the wellhead, and specific conductance.

b. Appropriations of groundwater with a temperature of greater than 60° F.
   1. For appropriations of groundwater between 60° F and 85° F, the proposed appropriation must meet all of these criteria:
      i. The water temperature is the result of the normal thermal gradient of the earth, plus the mean annual air temperature at the site, plus 14° F,
      ii. The concentration of soluble chloride is less than 10 ppm,
      iii. The well does not contain a production zone completed within the Madison Group of formations.
   2. Groundwater with a temperature of 85° F or more is presumed to be hydrothermal discharge water. DNRC will not process or grant an application for a permit unless the application contains credible information that the proposed appropriation does not include contribution by hydrothermal discharge water, is reviewed and approval recommended by the Technical Oversight Committee, and a contested-case hearing is held with the application approved by the hearings officer. If the application is denied, the well must be temporarily or permanently abandoned according to the Montana Board of Water Well Contractors Rules.


Yellowstone Controlled Groundwater Area
Yellowstone Controlled Groundwater Area
Yellowstone National Park Boundary
County Lines
Lakes
Streams
Roads
General Ownership
State Lands
Private Lands
National Forest
Location of detailed controlled groundwater area
N
5 0 5 10 Miles
Map compiled by Department of Natural Resources Water Resources Division personnel.

ADMINISTRATIVE RULE CLOSURES

For DNRC to adopt administrative rules to close a drainage basin, special conditions must exist in the basin (85-2-319, MCA). These conditions are that during certain times of the year: there is no unappropriated water in the source of supply, the rights of prior appropriators would be adversely affected by further appropriation, new uses would interfere with other planned uses, the water quality of an appropriator would be adversely affected by further appropriation, additional new uses would affect water quality so that the source will not meet its classification under 75-5-301(1), MCA (this law provided for the establishment of classification of all state waters in accordance with their present and future most beneficial uses and relates to water quality), and additional new uses would aversely affect the ability of holders of discharge permits to satisfy their effluent limitations.

Grant Creek Basin

Location: Grant Creek is a tributary of the Clark Fork River in Missoula County.

Effective Date: January 26, 1990

Information:

- The entire Grant Creek drainage, from its headwaters to its confluence with the Clark Fork River, including all named and unnamed tributaries, is contained in the closure area.
- No new appropriations of surface water for consumptive use can be made from July 1 - September 30 of each year.
- Permits for nonconsumptive use during the closure period will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.

Rock Creek Basin

Location: Rock Creek is a tributary of the Clarks Fork of the Yellowstone River in Carbon County.

Effective Date: February 9, 1990

Information:

- The entire Rock Creek drainage, from its headwaters to its confluence with the Clarks Fork of the Yellowstone River, including Red Lodge, Spring, Dry, Willow, and Clear Creeks, the West Fork of Rock Creek, and all unnamed tributaries, are included in the closure area.
- No new appropriations of surface water for consumptive use can be made from June 1 - September 30 of each year.
- Permits for nonconsumptive uses during the closure period will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.

Walker Creek Basin

Location: Walker Creek is a tributary of the Whitefish River in Flathead County.

Effective Date: September 28, 1990

Information:

- The entire Walker Creek drainage, from its headwaters to its confluence with the Whitefish River, is contained in the closure area.
- No new appropriations of surface water for consumptive use can be made from July 1 - March 31 of each year.
- Permits for nonconsumptive use during the closure period will be conditioned to provide that they will not decrease the

source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and point of return. Permits for nonconsumptive use are also subject to special conditions involving the measuring of inflow and outflow, construction of ponds and conveyance facilities to reduce loss by seepage, and filling of ponds during spring runoff or by June 1 (whichever comes first).

Towhead Gulch

Location: The Towhead Gulch drainage area is a tributary of the Missouri River at Upper Holter Lake in Lewis and Clark County.

Effective Date: January 17, 1992

Information:

- The entire Towhead Gulch drainage, from its headwaters to its confluence with the Missouri River, including Beartooth Creek and all unnamed tributaries, is contained in the closure area.
- Rattlesnake Gulch, McLeod Gulch, and their tributaries are not included in the basin closure.
- No new appropriations of surface water for consumptive use can be made during any time of the year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.

Musselshell River

Location: The Musselshell River, from the headwaters of the North and South Forks (Meagher County), flows through Wheatland, Golden Valley, and Musselshell Counties, and forms an east-west boundary for Petroleum, Garfield, and Rosebud Counties.

Effective Date: June 26, 1992

Information:

- The closure area contains the mainstems of the North and South Forks of the Musselshell River, and the Musselshell River downstream to the mouth of Flatwillow Creek.
- No new appropriations of surface water for consumptive use can be made during the period of July 1 - August 31 of each year.
- During the period of September 1 - September 30, the only applications for consumptive use that will be accepted will be for supplemental irrigation.
- Permits for nonconsumptive use during the closure period will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.

Sharrott Creek Basin

Location: Sharrott Creek is a tributary of McCalla Creek and is located in the Bitterroot River hydrologic basin in Ravalli County.

Effective Date: July 16, 1993

Information:

- The closure area is the entire Sharrott Creek drainage from its headwaters to its confluence with McCalla Creek, including all tributaries.

- No new appropriations of surface water for consumptive use can be made at any time of the year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.
- Applicants for groundwater appropriations within the closure area must prove the groundwater is not substantially or directly connected to surface water. Applications for groundwater that would cause a calculable reduction in surface water flow will be rejected.

Willow Creek Basin

Location: Willow Creek is a tributary of the Bitterroot River in Ravalli County.

Effective Date: September 23, 1994

Information:

- The entire Willow Creek drainage from it headwaters to its confluence with the Republican Ditch, including all tributaries, is contained in the closure area.
- No new appropriations of surface water for consumptive use can be made from May 1 - September 30 of each year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.
- Applicants for groundwater appropriations within the closure area must prove that groundwater is not substantially or directly connected to surface water. Applications for groundwater that would cause a calculable reduction in surface water during the closure period will be rejected.

Truman Creek Basin

Location: Truman Creek is a tributary of Ashley Creek in Flathead County.

Effective Date: February 10, 1995

Information:

- The entire Truman Creek drainage from its headwaters to its confluence with Ashley Creek, including Bales Creek, Emmons Creek, Wild Bill Creek, and all unnamed tributaries, is contained in the closure area.
- No new appropriations of surface water for consumptive use can be made from July 15 - August 31 of each year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.
- Applicants for groundwater appropriations within the closure area must prove the groundwater is not substantially or directly connected to surface water. Applications for groundwater that would cause a calculable reduction in surface water flow during the closure period will be rejected.

Sixmile Creek Basin

Location: Sixmile Creek is a tributary of the Clark Fork River in Missoula County.

Effective Date: December 8, 1995

Information:

- The entire Sixmile Creek Drainage, including the West Fork of Sixmile Creek and all unnamed tributaries, is contained in the closure area.

- No new appropriations of surface water for consumptive use can be made from June 1 - September 15 of each year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or not adversely affect prior appropriators between the point of diversion and the point of return.

Houle Creek Basin

Location: The Houle Creek basin is located in Missoula County.

Effective Date: September 20, 1996

Information:
- The entire Houle Creek drainage, from its headwaters to its confluence with the Frenchtown Irrigation District ditch, including all unnamed tributaries, is included in the closure area.
- No new appropriations of surface water for consumptive use can be made during any time of the year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.
- Applicants for groundwater within the closure area must prove the groundwater is not part of, or substantially or directly connected to surface water. Applications for groundwater that would cause a calculable reduction in surface water flow at any time during the year will be rejected.

DEPARTMENT ORDERED MILK RIVER CLOSURES

The legislature gave authority to DNRC to order closures within the Milk River drainage basin in statute 85-2-321, MCA.

The following factors were considered in the DNRC orders: new water use from the source for certain types of applications will adversely affect prior users or developments that are already planned, and significant disputes or enforcement problems regarding the priority of rights or amounts or duration of water in use exist or will arise.

An individual or a public agency can request that DNRC modify or revoke an order. The request must show that the criteria in 85-2-311, MCA can be met by an application or type of application. Also, DNRC can hold a hearing and modify or revoke its order.

Mainstem of the Milk River

Location: The mainstem of the Milk River, from Eastern Crossing (at the Canadian border), through Hill, Blaine, Phillips, and Valley Counties to the Vandalia Diversion Dam.

Effective Date: January 1, 1983

Information:

- This DNRC order closes the area to new appropriations that are direct diversions without storage for irrigation or any other consumptive use.
- The periods of closure for the above type of appropriations are:
  1. Year-round from Eastern Crossing to Fresno Dam,
  2. June 15 - September 30 from Fresno Dam to Dodson Dam,

3. June 15 - September 30 from Dodson Dam to Vandalia Dam.

- This area is closed because the occurance of unappropriated water is so infrequent that any new appropriation from the source of the type described above will adversely affect the rights of prior appropriators on the source.
- This closure is for surface water only and not for any groundwater appropriations, whether or not the water is hydrologically related to surface stream flow.

Southern Tributaries of the Milk River

Location: Miners Coulee, Halfbreed Coulee, Bear Creek, and all their respective tributaries in Toole and Liberty Counties.

Effective Date: September 1, 1991

Information:

- This DNRC order closes the area to new appropriations of surface water that are direct diversions without an on-source storage facility for irrigation or any other consumptive use during any time of the year.
- The area is closed because unappropriated water occurs so infrequently that any new appropriation from the source of the type described above will adversely affect the rights of prior appropriators on the source.
- Applications of up to 3 acre-feet per year for new domestic and stock watering purposes will be accepted.

LEGISLATIVE CLOSURES

Statute 85-2-319, MCA gives the legislature the authority to stop applications for new appropriations and applications for state water reservations in highly appropriated basins. The following closures were enacted by law.

Upper Clark Fork River Basin

Location: The Upper Clark Fork River basin is the drainage area of the Clark Fork River and its tributaries above Milltown Dam.

Effective Date: April 14, 1995

Information:

- DNRC may not process or grant an application for a permit to appropriate water within the Upper Clark Fork River basin.
- There are exceptions where DNRC may process or grant permit applications. These are:
  1. Applications filed before January 1, 2000 for permits to conduct environmental response actions or remedial actions at specially designated sites,
  2. Applications for permits for stock use,
  3. Applications for permits to store water,
  4. Applications for power generation at existing hydroelectric dams, and
  5. Applications for groundwater appropriations.
- Permits for remedial action may not be used for dilution and are limited to the time needed to complete the action. The total flow rate for all permits issued for remediation may not exceed 10 cubic feet per second.
- Applications for permits for groundwater appropriation must meet the criteria in 85-2-311, MCA. They must also contain a report prepared by a professional engineer or hydrologist addressing the hydrologic connection between the

groundwater and surface water. The source of groundwater cannot be part of or connected to surface water. The applicant must also provide an augmentation plan for replacing depletions to senior water rights.

- The legislature also created the Upper Clark Fork River Basin Steering Committee to review the closure every 5 years, and prepare reports on the instream flow pilot program and the relationship between the surface water and groundwater. The steering committee is also involved in water management and planning efforts, dispute resolution, and finding funding for new and expanded water storage sites.

Jefferson-Madison River Basin

Location: The Jefferson River basin is the drainage area of the Jefferson River and its tributaries above the confluence of the Jefferson and Madison Rivers. The Madison River basin is the drainage area of the Madison River and its tributaries above the confluence of the Madison and Jefferson Rivers.

Effective Date: April 1, 1993

Information:

- DNRC may not process or grant applications for permits to appropriate water or applications for state water reservations within the Jefferson River basin or the Madison River basin.
- There are exceptions where DNRC may process or grant permit applications. These are:
  1. Applications for permits for groundwater,
  2. Applications for permits for nonconsumptive use,
  3. Applications for permits for domestic, municipal, or stock use,
  4. Applications to store water during high spring flows, and
  5. Temporary emergency appropriations.

Teton River Basin

Location: The Teton River basin is the drainage area of the Teton River and its tributaries above the confluence of the Teton and Marias Rivers.

Effective Date: April 21, 1993

Information:

- DNRC may not process or grant applications for permits to appropriate water or applications for state water reservations within the Teton River basin.
- There are exceptions where DNRC may process or grant permit applications. These are:
  1. Applications for groundwater appropriations,
  2. Applications for nonconsumptive uses,
  3. Applications for domestic, municipal, or stock use,
  4. Applications to store water during high spring flows, and
  5. Temporary emergency appropriations.

Upper Missouri River Basin

Location: The Upper Missouri River basin is the drainage area of the Missouri River and its tributaries above Morony Dam.

Effective Date: April 16, 1993

Information:

- DNRC may not process or grant applications for permits to appropriate water or applications for state water reservations within the Upper Missouri River basin.
- This closure is temporary until final decrees have been issued for all of the subbasins of the Upper Missouri River basin.

- There are exceptions where DNRC may process or grant permit applications. They are:
  1. Applications to appropriate groundwater,
  2. Applications for nonconsumptive uses,
  3. Applications for domestic, municipal, or stock use,
  4. Applications to store water during high spring flows,
  5. Applications to use water from the Muddy Creek drainage in certain situations, and
  6. Temporary emergency appropriations.
- Applications to appropriate water from the Muddy Creek drainage (Muddy Creek drains into the Sun River) will only be approved if the use will help control erosion in the Muddy Creek drainage.

COMPACT CLOSURES

The State of Montana is negotiating with federal agencies and Indian tribes to determine the extent of the water rights claimed by the federal government and the tribes. The Reserved Water Rights Compact Commission (RWRCC) acts on behalf of the governor of Montana, facilitating the proceedings and participating in the negotiations.

When a compact is reached by RWRCC and the tribe or federal agency involved in negotiations, it must be ratified by the legislature of Montana, the tribal governing body, and the appropriate federal authority. When the compact becomes effective it is binding on all parties. Compacts are included in Montana's adjudication of existing water rights.

Some compacts contain provisions that close areas to new appropriations of water. Of the seven compacts that have been negotiated and ratified, four of them have closed certain sources of water to new appropriations.

U.S. Fish and Wildlife Service - Montana Compact

Location: Benton Lake and Black Coulee National Wildlife Refuges

Effective Date: May 17, 1991

Information:

- DNRC may not issue permits or water reservations for consumptive use in the Lake Creek watershed, including the unnamed tributaries of Benton Lake, or in the Black Coulee watershed.
- DNRC may issue certificates for groundwater wells and developed springs with a maximum appropriation of 35 GPM and 10 acre-feet per year.
- DNRC may issue permits for stock watering ponds and pits with a maximum capacity of less than 15 acre-feet and a maximum appropriation of less than 30 acre-feet per year from a source other than a perennial flowing stream.

Chippewa Cree Tribe of the Rocky Boy's Reservation - Montana Compact

Location: Big Sandy Creek and its tributaries from its headwaters to its confluence with the Milk River, Beaver Creek and its tributaries from its headwaters to its confluence with the Milk River

Effective Date: Pending

Information:

- DNRC shall not issue permits in the Big Sandy Creek basin and Beaver Creek drainage. Sage Creek and Lonesome Lake Coulee in the Big Sandy Creek basin are not included.
- The moratorium on new permits in the Big Sandy Creek basin and Beaver Creek drainage will be in effect for a

minimum of 10 years, effective May 21, 1997. This moratorium may be lifted after 10 years.

- There are exceptions in these areas where DNRC may issue a permit. These exceptions are:
  1. Groundwater wells or developed springs with a maximum appropriation of 35 GPM and 10 acre-feet per year,
  2. Stock watering ponds and pits less than 15 acre-feet in capacity with appropriations of less than 30 acre-feet per year from a source other than a perennial flowing stream,
  3. Groundwater appropriations from any deep aquifer not hydrologically connected to surface water.
- There is also a moratorium of 5 years on development of tribal consumptive uses of surface water in the Beaver Creek drainage, effective May 21, 1997.
- During the 5 year moratorium, a monitoring network of three stations will collect data to determine if Beaver Creek gains or loses flow between the confluence of the East and West Forks and the reservation boundary.

Northern Cheyenne - Montana Compact

Location: All of Rosebud Creek basin from its headwaters to its confluence with the Yellowstone River, in Big Horn and Rosebud Counties.

Effective Date: May 17, 1991

Information:

- There is a moratorium on the issuance of new permits in the entire Rosebud Creek basin. The moratorium does not apply when the applicant has entered into a deferral agreement with the tribe to use Rosebud Creek basin water outside the reservation boundaries.
- The moratorium also applies to alluvial water withdrawn in lieu of surface water from the Rosebud Creek basin.
- The moratorium may be lifted if it is determined that water is available over and above the amount necessary to fulfill the tribal water right.

U.S. National Park Service - Montana Compact

Locations: Yellowstone National Park, Glacier National Park, Bighole National Battlefield, Bighorn Canyon National Recreation Area, and Little Bighorn Battlefield National Monument

Effective Date: January 31, 1994

Information:

A. Yellowstone National Park, Glacier National Park, and Bighole National Battlefield

- This compact set future consumptive use limits in certain areas around Bighole National Battlefield, Glacier National Park and the part of Yellowstone National Park that is in Montana. DNRC may issue permits in these areas, subtracting the new appropriation amounts from the future consumptive use limits. No more new permits may be issued once these limits have been met.
- The following streams will be closed to new appropriations when the future consumptive use limits have been reached:
  1. Bighole National Battlefield
     North Fork of the Big Hole River and its tributaries, including Ruby and Trail Creeks (these streams are partially closed under the Jefferson/Madison Basin Closure).
  2. Glacier National Park (significant water remains available for new appropriations)
     Middle Fork and North Fork of the Flathead River.
  3. Yellowstone National Park (significant water remains available for new appropriations on all but Soda Butte Creek)
     Bacon Rind, Buffalo, Cottonwood, Coyote, Crevice, Dry Canyon, Hellroaring, Little Cottonwood, Slough, Snowslide, Soda Butte, and Tepee Creeks.
     Gallatin, Madison, and Yellowstone Rivers.

- Applications for groundwater appropriations of greater than 35 GPM or 10 acre-feet per year must contain a report prepared by a professional qualified in groundwater hydrology verifying the appropriation is not hydrologically connected to surface flow. If the report shows there is a connection and the future consumptive use limit has not been reached, the permit application can be approved but the amount of water will be subtracted from the limit. If the future consumptive use limit has been reached, the permit cannot be issued.
- A groundwater application for 35 GPM or less and 10 acre-feet per year or less does not require a hydrologic report. The application will be approved unless the United States files a valid objection. The amount of water will not be subtracted from the future consumptive use limits.

B. Bighorn Canyon National Recreation Area

- The compact set future consumptive use limits on four (4) streams in this area. They are Dry Head Creek, Deadman Creek, Davis Creek (also known as Medicine Creek), and Layout Creek. DNRC may issue permits on these streams, subtracting the amount of water appropriated from the future consumptive use limits. Once these limits are met, no more permits may be issued on these streams.
- There are exceptions in this area where DNRC may issue new water rights without considering future consumptive use limits. These exceptions are:
  1. Nonconsumptive uses,
  2. Instream stock watering, and
  3. Stockwater and domestic uses from wells or developed springs with an appropriation of 35 GPM or less and 10 acre-feet per year or less.
- For applications for groundwater appropriations of greater than 35 GPM or 10 acre-feet per year, if the United States shows the proposed appropriation is hydrologically connected to surface water and the Future Consumptive Use limits have not been reached, the permit may be issued, but the amount of water will be subtracted from the limits. If the limits have been reached, the permit will not be granted.

C. Little Bighorn Battlefield National Monument

- The United States has a reserved right for instream flow from the Little Bighorn River. The amount is 51 cubic-feet per second from January 1 - December 31, and 950 cubic-feet per second for 15 days during the period of May 1 - June 30.
- When flow in the river drops below these amounts, the diversions of junior appropriators upstream from the Little Bighorn Battlefield and to whom the United States is not subordinate may be curtailed so that the flow rate in the river increases back to the reserved amount.
- Water rights with priority dates junior to the United States reserved right that are not subordinate to the United States and not affected by potential curtailment are:
  1. Instream stock use,
  2. Use of groundwater from wells or developed springs that is 35 GPM or less and 10 acre-feet per year or less,
  3. Nonconsumptive use,
  4. Use of groundwater from wells that are outside of the Quaternary Alluvium or Quaternary Terrace Deposits of the Little Bighorn River and its tributaries, or the Parkman Sandstone,
  5. Use of groundwater from wells that are greater than 35 GPM or 10 acre-feet per year, within the Quaternary Alluvium, Quaternary Terrace Deposits, or Parkman Sandstone, but are not determined to be hydrologically connected to the Little Bighorn River or its tributaries.

Persons with disabilities who need an alternative accessible format of this document should contact:

Department of Natural Resources and Conservation
Water Resources Division
48 North Last Chance Gulch
P.O. Box 201601
Helena, MT 59620-1601
Phone: 406-444-6603/Fax: 406-444-0533/TDD: 406-444-6873

Compiled by:

Montana Department of Natural Resources and Conservation

Water Resources Division
Water Rights Bureau
48 North Last Chance Gulch
P.O. Box 201601
Helena, Montana 59620-1601

For questions call (406) 444-6611

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